REMARKS

This responds to the Office Action mailed on June 6, 2007.

Claims 1, 7, 9 and 18 are amended, claims 6, 14 and 23 were previously canceled, and no claims are added; as a result, claims 1-5, 7-13, 15-22 and 24-25 remain pending in this application.

Claim Objections

Claim 7 was objected to as being dependent on a canceled claim. Applicant has amended claim 7 such that it depends from claim 1. Applicant respectfully requests removal of the objection to claim 7.

§ 101 Rejection of the Claims

Claims 9-13 and 15-17 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended claim 9 to recite that various modules recited in the claims are executed by one or more processors. Therefore claims 9-13 and 15-17 are not "software per-se". Applicant respectfully submits that the claims recite statutory subject matter and requests reconsideration and withdrawal of the rejection of claims 9-13 and 15-17.

§ 103 Rejection of the Claims

Claims 1-5, 7-13, 15-22, and 24-25 were rejected under 35 U.S.C. § 103(a) as being obvious over Coss in view of Moir (U.S. 2002/0120720 A1) in view of Venkatchary, and further in view of Katz. The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)). Applicant respectfully submits that the claims contain elements not found in the combination of Coss, Venkatachary and Katz, therefore the claims are not obvious in view of the combination.

For example, claims 1, 9 and 18 as amended recite that the "executing a second rule of the parsed protocol state rules, wherein the second rule uses the saved result to determine a result for the second rule" With respect to using a saved result, the Office Action states that Coss teaches "the at least one action comprises saving the result of the at least one action for use in a later executed rule" citing column 5, lines 40-42. Applicant respectfully submits Applicant's amended claims recite a different process than that of Coss. The cited portion of Coss states:

> Stateful packet filtering may be implemented by caching rule processing results for received packets, and then utilizing the cached results to bypass rule processing for subsequent similar packets. For example, the results of 45 applying a rule set to a packet of a given network session may be cached, such that when a subsequent packet from the same network session arrives in the firewall, the cached results from the previous packet are used for the subsequent packet. This avoids the need to apply the rule set to each 50 incoming packet, and thereby provides substantial performance advantages over conventional firewalls. (emphasis added)

It is clear from the language cited in the Office Action that while Coss may save data, it is not saving data for use in determining a result of a second rule executed as recited in Applicants' claims 1, 9 and 18. Applicant's claims recite that a second rule is executed and uses the result of

a previous rule to determine a result for the second rule. Instead, Coss discloses saving the results to *bypass* processing further rules, not for use in determining a result of a second rule. Coss specifically states that the application of the rule set is avoided using the cached result. If rule processing is bypassed, than there is no execution of a second rule using the results of a previous rule. Applicant has reviewed Venkatachary, Moir and Katz and can find no teaching or suggestion of saving the result of a first rule and executing a second rule using the first result to determine a result for the second rule as recited in Applicant's claims 1, 9 and 18. Thus the combination of Coss, Venkatachary, Moir and Katz fails to teach or suggest each and every element of claims 1, 9 or 18 resulting in differences between the claimed invention and the combination of Coss, Venkatachary, Moir and Katz. Therefore claims 1, 9 and 18 are not obvious in view of the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1, 9 and 18.

Further, Coss teaches away from Applicant's claimed invention. As discussed above, Applicants claims 1, 9 and 18 recite saving the results of a rule for use determining a result for a second rule that is executed. In contrast, Coss teaches that it is desirable to avoid rule processing by using a cached rule result to bypass rule set execution. Therefore Coss teaches away from Applicants' claimed invention. As a result, there is no motivation to combine Coss with Venkatachary, Moir and Katz.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(612) 373-6954

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By

Rodney L. Lacy
Reg. No. 41,136

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 18th day of November, 2009.

Amy Moriarty
Name

Signature